



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 230119-0019]

RIN 0648-BL59

#### International Fisheries; Pacific Tuna Fisheries; 2022-2024 In-season Action

#### Announcement Procedures for Commercial Pacific Bluefin Tuna in the Eastern

#### Pacific Ocean

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is issuing regulations under the Tuna Conventions Act of 1950, as amended (TCA), to revise in-season action announcement procedures for the commercial fisheries for Pacific bluefin tuna. This final rule amends procedures to add notice of in-season action by direct emails to the affected public in addition to publication in the **Federal Register**. In-season actions will be effective upon the earlier of either receipt of the notice by email or publication of the notice in the **Federal Register**. In-season actions will also be posted on the NMFS website. This rule adds a provision to the in-season action procedures to allow any Pacific bluefin tuna already on board a fishing vessel on the effective date of a notice of in-season action to be retained on board and landed or transshipped within 24 hours of the effective date of the in-season action.

**DATES:** This rule is effective [*Insert date 30 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal:

<https://www.regulations.gov>, NOAA-NMFS-2022-0106 or contact the Acting Highly Migratory Species Branch Chief, Rachael Wadsworth, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, or [WCR.HMS@noaa.gov](mailto:WCR.HMS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Celia Barroso, NMFS, 562-432-1850, [Celia.Barroso@noaa.gov](mailto:Celia.Barroso@noaa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On November 21, 2022, NMFS published a proposed rule in the **Federal Register** to revise regulations at 50 CFR part 300, subpart C, amending in-season action announcement procedures for Pacific bluefin tuna in the Inter-American Tropical Tuna Commission (IATTC) Convention Area (Convention Area) for 2022-2024 (87 FR 70766). The Convention Area is defined as waters of the eastern Pacific Ocean (EPO) within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude. The comment period was open for 15 days. NMFS received one public comment on the proposed rule, which voiced general support for management actions to conserve Pacific bluefin tuna.

This final rule is implemented under the authority of the TCA (16 U.S.C. 951 *et seq.*), which directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate regulations as necessary to implement resolutions adopted by the IATTC. The Secretary of Commerce has delegated this authority to NMFS.

Additional background information on the IATTC, the international obligations of the United States as a member of the IATTC, and the need for regulations to manage the Pacific Bluefin tuna stock was included in the proposed rule and is not repeated in this rule.

### **New Regulations for in-season Action Announcements for Commercial Pacific Bluefin Tuna for 2022-2024**

NMFS is revising the existing procedures at 50 CFR 300.25(g)(7) for announcing in-season actions to reduce trip limits or close the fishery by adding notice by direct email to the affected public. In-season actions will still be published in the **Federal Register** and will also appear on the NMFS website. In-season actions will be effective upon the time and date that will appear in the earlier of either receipt by notice in a direct email or publication in the **Federal Register**. In accordance with an August 5, 2022, final rule implementing commercial catch and trip limits for Pacific bluefin tuna (87 FR 47939), in the event the trip limit was reduced early or the fishery was closed due to an overestimation of catch, NMFS will reverse immediately the prior in-season action using the same procedures outlined above.

This final rule will also revise 50 CFR 300.25(g)(6) to clarify that, upon the effective date of a notice of in-season action to change a trip limit, targeting, retaining on board, transshipping or landing Pacific bluefin tuna in excess of the updated trip limit in the Convention Area will be prohibited. To avoid regulatory discards, that prohibition will include an exception to allow any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice of in-season action to be retained on board and landed or transshipped within 24 hours after the effective date announced in the in-season action, to the extent authorized by applicable laws and regulations.

### **Classification**

The NMFS Assistant Administrator has determined that this final rule is consistent with the Tuna Conventions Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

### *Economic Analysis*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed

rule stage that, for purposes of the Regulatory Flexibility Act, this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No information received during the public comment period changes the action from the proposed rule or NMFS' analysis. Therefore, the initial certification published with the proposed rule—that this rule is not expected to have a significant economic impact on a substantial number of small entities—remains unchanged. As a result, a regulatory flexibility analysis was not required and none was prepared.

*Paperwork Reduction Act*

This final rule contains no collection of information requirements under the Paperwork Reduction Act of 1995.

**List of Subjects in 50 CFR Part 300**

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: January 19, 2023.

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Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

**Subpart C - Eastern Pacific Tuna Fisheries**

1. The authority citation for part 300, subpart C, continues to read as follows:

**Authority:** 16 U.S.C. 951 *et seq.*

2. In § 300.25, revise paragraphs (g)(6) and (7) to read as follows:

**§ 300.25 Fisheries management.**

\* \* \* \* \*

(g) \* \* \*

(6) *In-season actions for trip limits and closure of the fishery.* If NMFS determines that action to change a trip limit needs to be taken under paragraphs (g)(3) through (5) of this section, the revised trip limit will be effective upon the date provided in a notification of in-season action in accordance with paragraph (g)(7) of this section. Upon the effective date of an in-season action to change trip limits under paragraphs (g)(3) through (5), targeting, retaining on board, transshipping, or landing Pacific bluefin tuna in the Convention Area in violation of the in-season action shall be prohibited, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notification of in-season action may be retained on board and landed or transshipped within 24 hours after the effective date of the notice, to the extent authorized by applicable laws and regulations. After NMFS determines that the annual catch limits under paragraphs (g)(3) through (5) are expected to be reached, NMFS will close the fishery effective upon the date provided in the notification in accordance with paragraph (g)(7). Upon the effective date in the notification, targeting, retaining on board, transshipping, or landing Pacific bluefin tuna in the Convention Area shall be prohibited through the end of the calendar year, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board and landed or transshipped within 14 days after the effective date published in the fishing closure notification, to the extent authorized by applicable laws and regulations.

(7) *Announcement and effective dates of in-season actions.* If in-season actions under paragraphs (g)(2) through (6) of this section are needed, NMFS will post a notice

on the NMFS web page announcing the in-season action, including effective dates.

NMFS will also send emails with notice of the in-season action to affected vessel owners.

This action will also be published in the **Federal Register** as soon as practicable. The in-season action will be effective upon the earlier of either receipt by email of such notice or publication in the **Federal Register**.

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